

Translation

PATENT COOPERATION TREATY

PCT/DE2003/001869



PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2002P09525WO	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/DE2003/001869	International filing date (day/month/year) 04 June 2003 (04.06.2003)	Priority date (day/month/year) 14 June 2002 (14.06.2002)
International Patent Classification (IPC) or national classification and IPC H04Q 11/04		
Applicant SIEMENS AKTIENGESELLSCHAFT		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <div style="margin-left: 40px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</div> b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <div style="margin-left: 20px;"><input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application</div>

Date of submission of the demand 13 January 2004 (13.01.2004)	Date of completion of this report 13 September 2004 (13.09.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International Application No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☒ The international application as originally filed/furnished
- ☒ the description:
- pages _____ 1-16 _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- pages _____ 1-26 _____, as originally filed/furnished
- pages* _____, as amended (together with any statement) under Article 19
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the drawings:
- pages _____ 1/2-2/2 _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims		YES
	Claims	1, 11, 18	NO
Inventive step (IS)	Claims		YES
	Claims	2-10, 12-17, 19-26	NO
Industrial applicability (IA)	Claims	1-26	YES
	Claims		NO

2. Citations and explanations

Reference is made to the following documents:

D1: EP-A-1 045 557

D2: DE-A-100 50 608

A. Documents and observations on PCT Article 33

1. Document D1 (see in particular the abstract; paragraphs [0007], [0028] to [0030]; [0044], [0045], [0051] and [0052]; figure 3) discloses, in accordance with all of the features of claim 1, a method for transmitting information at least partially via a packet-oriented communications network (see in particular the abstract; paragraphs [0028] to [0030]) in which the information to be transmitted is entered as user information in a user data field of at least one data packet of the packet-oriented communications network (see in particular paragraph [0007]; "ATM payload" in figure 3) and destination information is added to the at least one data packet (see in particular "destination port" or "ATM header" in figure 3), wherein
 - additional routing information for further relaying is added to the information to be transmitted before it is inserted into the user data field of

- the at least one data packet (see in particular paragraphs [0030], [0044], [0045] and [0051]),
- the at least one data packet and the information inserted into it are transmitted together with the added routing information to at least one destination in the packet-oriented communications network, said destination being represented by the destination information in the data packet (see in particular paragraphs [0051] and [0052]),
 - the information transmitted to the destination is further relayed as a function of the routing information added (see in particular paragraphs [0045], [0051] and [0052]).

Therefore, the subject matter of **claim 1** is not novel and thus does not satisfy the requirements of PCT Article 33(2).

It should furthermore be noted that even if the applicant were to challenge the above objection with respect to a lack of novelty on the basis of a different interpretation of the features of **claim 1** and the substantive matter of document **D1**, it would **not** be impossible to acknowledge an **inventive step** (PCT Article 33(3)) either for the subject matter of **claim 1** in view of the disclosure in document **D1** and the common knowledge of a person skilled in the field of packet-oriented communications networks and corresponding routing techniques (see e.g. document **D2**, which discloses a method for transmitting in Ethernet frames a voice data stream that has been converted into ATM cells: see abstract; paragraphs [0008], [0011], [0019] and [0020]).

2. The same observations made in paragraph 1 above with regard to claim 1 also apply to **independent claims 11 and 18**, since claims 11 and 18 relate to a communications arrangement and a communications device, respectively, which comprise the same combinations of features as claim 1 in the form of device features.

Therefore, the subject matter of the current claims 11 and 18 is likewise **not considered novel or inventive** within the meaning of PCT Article 33(2) and (3).

3. The same observations made in paragraphs 1 and 2 with regard to claims 1, 11 and 18 also apply to **independent claims 2, 12 and 19**, since claims 2, 12 and 19 relate to a method, a communications arrangement and a communications device, respectively, which essentially comprise the same combinations of features as claims 1, 11 and 18 (see point 2 in section C).

The combination of features in independent claims 2, 12 and 19 differs from claims 1, 11 and 18 merely in that the information is transmitted via a time slot-oriented communications network. However, this feature represents a simple modification a person skilled in the art would make to the solution disclosed in D1 and has no intrinsic inventive value.

Therefore, the subject matter of the current claims 2, 12 and 19 is likewise **not considered inventive** within the meaning of PCT Article 33(3).

4. **Dependent claims 3 to 10, 13 to 17 and 20 to 26** do not contain any additional features either that, in

combination with the features of any claim to which they refer back, could lead to subject matter involving an inventive step, since the features of these claims are merely developments of the method according to claim 1 that are likewise known in principle from document D1 (see in particular paragraphs [0028] to [0030], [0044], [0045], [0051] and [0052]) or from document D2 (see in particular paragraphs [0008], [0011], [0019] and [0020]) or represent obvious configuration details that are generally known to a person skilled in the technical field of packet-oriented and time slot-oriented communications networks and corresponding routing techniques.

For this reason, dependent claims 3 to 10, 13 to 17 and 20 to 26 likewise **do not** satisfy the requirements of PCT Article 33(3).

B. Certain defects in the international application

1. Pursuant to PCT Rule 5.1(a)(ii), the introductory part of the description should have cited documents D1 and D2, which represent the relevant prior art with respect to the present application, and briefly outlined the relevant prior art contained therein.
2. Pursuant to PCT Rule 6.3(b), each independent claim should have been clearly delimited over the closest prior art (e.g. document D1) in the **two-part form** (see point 1 in section A).
3. In the description, in lines 11 and 14 on page 6, "FIG 2" should be replaced with "FIG 3" and "FIG 3" should be replaced with "FIG 2".

C. Certain observations on the international application

1. Claims 1, 2 and 24 are not clear (PCT Article 6) for the following reasons:
 - 1.1. The reference sign "(inf)" is used in claims 1 and 2 (lines 3 and 27) but does not appear in the figures. This reference sign should be replaced in said claims with "(cell)".
 - 1.2. Claim 24 relates to a communications device although the wording of this claim refers back to claims 11 and 13, that is, to a communications arrangement. To overcome this defect it seems appropriate for claim 24 to refer to claims 18 and 20.
2. Although claims 1 and 2 (method), 11 and 12 (communications arrangement) and 18 and 19 (communications device) are drafted as separate independent claims, they seem in fact to relate to the same subject matter, the only apparent difference being in the terminology used for the features of this subject matter. The claims are therefore not concise. Moreover, the claims display an overall lack of clarity because the number of independent claims makes it difficult, if not impossible, to identify the subject matter for which protection is sought, and it is therefore unreasonably difficult for third parties to determine the scope of protection.

For these reasons, claims 1, 2, 11, 12, 18 and 19 do not satisfy the requirements of PCT Article 6.
3. Claims 3 (method), 13 (communications arrangement) and 20 (communications device) serve as the basis for

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other multiple dependent claims. For this reason,
said claims do not satisfy the requirements of PCT
Article 6 (see also PCT Rule 6.4(a)).